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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,479	09/25/2000	Greg Lane	11712/2	2962

7590 12/22/2003

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EXAMINER

NGUYEN, BINH AN DUC

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 12/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/669,479

Applicant(s)

LANE, GREG

Examiner

Binh-An D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7. 6) ☐ Other: _____

DETAILED ACTION

1. The Amendment and Information Disclosure Statement filed in Papers No. 6 and 7, August 28 and October 23, 2003, respectively, have been received. According to the Amendment, claims 1, 4, 5, 11, 14, 15, 18, and 21 have been amended. Currently, claims 1-21 are pending in the application. Acknowledgment has been made.

2. Claim 5 is objected to because of the following informalities:

In claim 5, the recited word "-a" (line 12) should be deleted. Appropriate correction is required.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fennell, Jr. et al. (5,695,400) in view of Fletcher et al. (6,009,274).

Fennell, Jr. et al. teaches a computer-implemented game system, method, and program embodied in a storage medium comprising: a first computer (player terminal 110) for executing the computer game/application program (Fig. 1; 3:3-22); a second computer (host computer 114) for executing a monitoring program (monitoring players' responses); a network (112) for establishing connection between the first computer and

the second computer (Fig.1); issuing a command to temporarily modify the computer code of the computer game while the computer game is executing (issuing responses to the game terminals or assigning them respective degrees of control) (Fig. 2); operating the game/application program prior to establishing the network connection between the first computer and the remote second computer (initializing computer); storing, at the first computer, data relating to the operation of the game/application program (3:3-22); uploading the data (game responses) to the second computer after the network connection is established (1:45-47); monitoring the operation of the game/application program at the second computer after the modification has taken effect (continuing controlling the network game after ranking).

Fennell, Jr. et al. does not explicitly teach the limitations of computer program means for monitoring the operation of the application program executing on the first computer while the application program is executing; computer program means for issuing a command to modify the computer code of the application program while the application program is executing; modifying computer code of the game/application program, at the first computer, according from the issued modifying command of the second computer; means at the first computer for modifying the computer code of the application program; computer program means (at the first computer) for continuing to execute the application in accordance with the modified computer code without ceasing execution (or shut down) of the computer game (or application program) (claims 1, 11, 18, and 21); issuing a command to permanently modify the computer code of the computer game while the computer game is executing (claims 3, 13); analyzing the data

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at the second computer to assist in determining how to modify the computer code of the computer game (or application program) (claim 4); maintaining a server routing list at the first computer; querying, at the first computer, the computer game (or application program) to determine a list of available data; sending the list of available data from the first computer to the second computer; determining, at the second computer, a sub-set of the available data from the list of available data; sending the sub-set of the available data from the second computer to the first computer; collecting, at the first computer, data in accordance with the sub-set of the available data from the computer game; providing the data collected in accordance with the sub-set of available data to the second computer (claim 5); a routing list, located at the first computer; and collector means, located at the first computer (claim 19); a plurality of collectors, located at the first computers, each collector querying the application program to determine available data and obtaining available data from the application; a server program, located at the first computer, for providing data to a remote program (from the second computer); a routing list, located at the first computer, for providing routing information to an appropriate client (from the second computer); a plurality of consoles, located at the second computer, to provide an interface to allow a remote user to specify commands to observe and change the operation of part of the application program; and a second routing list, located at the second computer, to rout data provided by server program to select one of the consoles (claim 20).

Fletcher et al., however, teaches a computer-implemented system, method, and program embodied in a storage medium for remotely monitoring and dynamically

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changing the operation of a computer application program executing on a first computer (50a-50c and 51a-52c) while the application program is executing, the limitations of computer program means for monitoring the operation of the application program executing on the first computer while the application program is executing (3:45-4:17; 7:38-65); computer program means for issuing a command (from manager console 54) (Fig.1) to modify the computer code of the application program while the application program is executing (9:2-16); modifying computer code of the application program at the first computer according from the issued modifying command of the second computer (9:3-8); means at the first computer for modifying the computer code of the application program (5:6-61); computer program means (at the first computer) for continuing to execute the application in accordance with the modified computer code without ceasing execution (or shut down) of the computer game (or application program)(5:43-46; 9:3-16); issuing a command to permanently modify the computer code of the computer game while the computer game is executing (9:3-16); analyzing the data at the second computer to assist in determining how to modify the computer code of the computer game (or application program) (11:1-20); maintaining a server routing list at the first computer (5:53-61); querying, at the first computer, the computer game (or application program) to determine a list of available data (10:53-67); sending the list of available data from the first computer to the second computer; determining, at the second computer, a sub-set of the available data from the list of available data; sending the sub-set of the available data from the second computer to the first computer; collecting, at the first computer, data in accordance with the sub-set of the

available data from the computer game; providing the data collected in accordance with the sub-set of available data to the second computer (9:17-11:20); a plurality of collectors (60, 61b), located at the first computers (50a-50c and 51a-52c) (Fig.1), each collector querying the application program to determine available data and obtaining available data from the application; a server program (ASU agent), located at the first computer, for providing data to a remote program (from the second computer) (5:6-25); a routing list (generating agent update request), located at the first computer, for providing routing information to an appropriate client (from the second computer)(5:53-61); a plurality of consoles (domain collector 65) (Fig.1), located at the second computer, to provide an interface to allow a remote user to specify commands to observe and change the operation of part of the application program; and a second routing list (5:31-33), located at the second computer, to rout data provided by server program to select one of the consoles. Fletcher et al. further teaches uploading the data (sending update request) to the second computer after the network connection is established (7:8-23).

Regarding the limitations of adjusting a resource of the computer game (claim 6); adjusting the amount of memory allocated to (or part of) the computer game (claims 7 and 8); changing an artificial intelligence module (predetermined program values or options) in the computer game (or application program) (claim 9), these limitations are notoriously well known in the video game industry, e.g., adjusting game level or weapon strength, assigning memory location for a particular audio or video packet for faster processing, and selecting predetermined simulation commands.

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It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide Fennell, Jr. et al.'s system and method of managing multi-player game playing over a network the automatic updating software technique without rebooting the computer system, as taught by Fletcher et al., to come up with a faster and uninterrupted interactive network game system thus attract more players to the video game network and increase profits.

5. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Teresa Walberg
Supervisory Patent Examiner
Group 3700